

Appln No. 09/603,834

Amdt date July 2, 2003

Reply to Office action of April 8, 2003

REMARKS/ARGUMENTS

The above identified patent application has been amended and reconsideration and reexamination are hereby requested.

Claims 2 - 5, 7, 9 - 23 are now in the application. Claims 1, 6 and 8 have been cancelled. Claims 2, 3, 4, 5, 7, 9, 10, 13, 14, 15, 16, 18, 19, 20 and 21 have been amended. Claim 23 has been added.

The Examiner has rejected Claims 1 - 22 under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The Examiner has also rejected Claims 1 - 22 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

The Applicants have canceled Claim 1 and have provided new Claim 23 to call for (underlining added for emphasis) ... beginning data transmission with a triggering signal sent by the first transmitter/receiver unit to the second transmitter/receiver unit repetitively at the end of a first pre-determined time interval; ... after emission of the triggering signal, maintaining a reception readiness of the first transmitter/receiver unit for a second pre-determined time interval; implementing by the external apparatus a first plausibility check of data transmitted by the first transmitter/receiver unit; and sending a first acknowledgment by the second transmitter/receiver unit to the first

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transmitter/receiver unit upon receipt of the triggering signal; wherein the first acknowledgment includes: at least one first item of control information for controlling the reception readiness of the first transmitter/receiver unit; and a second item of control information for control of the first transmitter/receiver unit such that, in the event of lack of plausibility of the data transmitted, the second item of control information includes a first control signal for triggering a renewed transmission of data by the first transmitter/receiver unit.

The Applicants have similarly amended Claim 21 to call for (underlining added for emphasis): the first transmitter/receiver unit beginning data transmission by sending a triggering signal to the second transmitter/receiver unit repetitively at the end of a first pre-determined time interval, and at least a reception readiness of the first transmitter/receiver unit being maintained after emission of the triggering signal for a second pre-determined time interval; wherein the external apparatus implements a first plausibility check of data transmitted by the first transmitter/receiver unit; and wherein a first acknowledgment is sent by the second transmitter/receiver unit to the first transmitter/receiver unit upon receipt of the triggering signal, the first acknowledgment including: at least one first item of control information for controlling the reception readiness of the first transmitter/receiver unit; and a second item of control information for control of the first transmitter/receiver unit such that, in the event of lack of plausibility of the data transmitted, the second item of control

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information includes a first control signal for triggering a renewed transmission of data by the first transmitter/receiver unit.

Support for new Claim 23 and amended Claim 21 can be found in the Specification at pages 24 - 30 in conjunction with Figures 2 and 3.

The Applicants therefore submit that new Claim 23 and amended Claim 21 are described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention under 35 U.S.C. §112, first paragraph, and particularly points out and distinctly claim the subject matter which Applicants regard as the invention under 35 U.S.C. §112, second paragraph.

The Examiner has further rejected under 35 U.S.C. §102(b): Claims 1 - 3, 6, 7, 16 and 19 - 22 as being anticipated by Nappholz et al.; and under 35 U.S.C. §103: Claims 4, 8 - 15 and 17 as being unpatentable over Nappholz in view of de Coriolis, Claim 5, as being unpatentable over Nappholz et al. in view of Fountain et al. and Claim 18 as being unpatentable over Nappholz et al. in view of Wyborny et al.

As discussed above, Applicants' new Claim 23 calls for (underlining added for emphasis) ... beginning data transmission with a triggering signal sent by the first transmitter/receiver unit to the second transmitter/receiver unit repetitively at the end of a first pre-determined time interval; ... after emission of the triggering signal, maintaining a reception readiness of the first transmitter/receiver unit for a second pre-determined

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time interval; implementing by the external apparatus a first plausibility check of data transmitted by the first transmitter/receiver unit; and sending a first acknowledgment by the second transmitter/receiver unit to the first transmitter/receiver unit upon receipt of the triggering signal; wherein the first acknowledgment includes: at least one first item of control information for controlling the reception readiness of the first transmitter/receiver unit; and a second item of control information for control of the first transmitter/receiver unit such that, in the event of lack of plausibility of the data transmitted, the second item of control information includes a first control signal for triggering a renewed transmission of data by the first transmitter/receiver unit.

As such, Applicants submit that new Claim 23 is not anticipated by Nappholz et al. under 35 U.S.C. §102(b).

The present invention provides for (underlining added for emphasis): firstly, the initiating of a data transmission being repetitively performed at the end of a first predetermined time interval and a reception readiness being maintained for a second, shorter time interval; secondly, the sending of a first item of control information from the external device to the implantable device upon reception of the triggering signal by the external device, the first item of control information causing the maintenance of the reception readiness in the implantable device; and thirdly, a plausibility checking of the data received by the external device and sending a first control signal (different from the first item of control information)

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for triggering a renewed transmission of data by the implantable device, if the plausibility check results in determination of a lack of plausibility.

On the other hand, none of the prior art documents give those person skilled in the art a clear, explicit and unambiguous hint as to sending a first item of control information from the external device to the implantable device to control the reception readiness of the implantable device. Nappholz et al. only refers to some synchronization sequence which does not explicitly include at least one first item of control information of controlling the reception readiness of the first transmitter/receiver unit. (see Nappholz et al., column 17, lines 20 ff.) Additionally, the Applicants submit that de Coriolis in fact teaches a way from triggering a renewed transmission of data by the first transmitter/receiver unit (implantable device) in the event of lack of plausibility of the data transmitted. That is, because de Coriolis relies on data correction according to CRC-16 (cyclic redundancy check). CRC-16 redundant data is transmitted to correct data errors on the receiver's side upon reception. Therefore, CRC-16 teaches a way to avoid the retransmission of data. Therefore, the frame check 80 (see de Coriolis ,columns 13 and 14) that the Examiner mentions does not contain any code like that provided by the present invention to trigger resending of the data.

Accordingly, the Applicants submit that Claim 23 is not anticipated by Nappholz et al. under 35 U.S.C. §102(b).

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Claims 2, 3, 4, 5, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 are now dependent on Claim 23. As such, these dependent claims are believed allowable based upon Claim 23.

Similarly, Applicants' amended Claim 21 calls for (underlining added for emphasis) ... the first transmitter/receiver unit beginning data transmission by sending a triggering signal to the second transmitter/receiver unit repetitively at the end of a first pre-determined time interval, and at least a reception readiness of the first transmitter/receiver unit being maintained after emission of the triggering signal for a second pre-determined time interval; wherein the external apparatus implements a first plausibility check of data transmitted by the first transmitter/receiver unit; and wherein a first acknowledgment is sent by the second transmitter/receiver unit to the first transmitter/receiver unit upon receipt of the triggering signal, the first acknowledgment including: at least one first item of control information for controlling the reception readiness of the first transmitter/receiver unit; and a second item of control information for control of the first transmitter/receiver unit such that, in the event of lack of plausibility of the data transmitted, the second item of control information includes a first control signal for triggering a renewed transmission of data by the first transmitter/receiver unit.

Accordingly, the Applicants submit that amended Claim 21 is not anticipated by Nappholz et al. under 35 U.S.C. §102(b) for the same reasons set forth above for new Claim 23.

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Claim 22 is dependent on Claim 21 and is therefore also believed allowable based upon Claim 21.

Therefore, in view of the above amendment and remarks it is submitted that the claims are patentably distinct over the prior art and that all the rejections to the claims have been overcome. Entry of the amendment and reconsideration and reexamination of the above Application is requested.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

A handwritten signature in cursive script, reading "Richard J. Paciulan", written over a horizontal line.

By

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